

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DIONTEE LAQUINN BEAVERS,

Defendant-Appellant.

UNPUBLISHED

September 16, 2003

No. 240589

Montcalm Circuit Court

LC No. 01-000231-FH

Before: Smolenski, P.J., and Murphy and Wilder, JJ.

MEMORANDUM.

Defendant appeals as of right from his jury trial convictions of two counts of assaulting an employee of a place of confinement, MCL 750.197c. Defendant was sentenced as a second habitual offender, MCL 769.11, to three and a half to eight years' imprisonment. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that the trial court coerced the jury verdict by indicating to the jury its desire that the trial be completed in one day and by warning the jury of an impending winter storm. Defendant did not object at trial to the court's comments he now challenges. Therefore, defendant has forfeited this issue unless he demonstrates (1) that error occurred, (2) that the error was plain, and (3) that the error affected his substantial rights, in that it affected the outcome of the trial. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999).

We find no plain error in the trial court's comments. Although the trial court indicated that it would like to conclude the trial in one day because of the impending winter storm, the court assured the jury that "[w]e do have the time available for two days if we need it." The trial court further assured the jury that, while it may be required to deliberate into the evening hours, the court did not expect the jury to deliberate "into the night and into the morning." Under these circumstances, we do not believe the trial court "create[d] an atmosphere which seemingly require[d] a hasty verdict." *People v London*, 40 Mich App 124, 128; 198 NW2d 723 (1972).

Affirmed.

/s/ Michael R Smolenski

/s/ William B. Murphy

/s/ Kurtis T. Wilder